

S/L 19
15.11.2021
Court. No. 19
GB

WPA 8797 of 2021

Tapas Kumar Das & Anr.
Vs.
The Kolkata Municipal Corporation & Ors.

(Through Video Conference)

Mr. Rahul Karmakar,
Mr. Debabrata Ray.

...for the Petitioners.

Mr. Gurudas Mitra,
Ms. Manisha Nath.

...for the K.M.C.

The petitioners allege that the authorities of the Kolkata Municipal Corporation have arbitrarily refrained from mutating the names of the petitioners in respect of the premises situated at 17, Baithakkhana Road, Kolkata – 700009.

According to the petitioners, the said property was bequeathed to the petitioners by a Will of the erstwhile owner. The Will has been probated. The petitioners applied for mutation on February 20, 2020.

Mr. Mitra, learned advocate appearing on behalf of the Kolkata Municipal Corporation submits on instruction that the premises has been listed as a 'Khatal' in the database of the Kolkata Municipal Corporation and without clearance of the Thika Controller, Kolkata, the mutation cannot be granted. Such instruction is taken on record.

The petitioner relies on a deed of sale, from which it appears that the father of the testator had purchased the

property sometime in 1941 and thus, according to the petitioners the property could not have been enlisted as 'Khatal'.

Be that as it may, as there are disputed question of facts, the Court cannot venture to decide on the nature of the property. It is for the petitioner to clarify before the Kolkata Municipal Corporation that the said property was not a 'Khatal' and was never treated as a 'Thika' property and for the Thika Controller to give necessary information.

The writ petition is disposed of with a direction upon the Kolkata Municipal Corporation to give a hearing to the petitioners on the basis of the application filed by the petitioner in accordance with law. It is made clear that the Kolkata Municipal Corporation shall obtain necessary opinion from the Thika Controller, Kolkata with regard to the nature of the property in question if the petitioner cannot clear the doubt. The Court expects that if any query is made by the petitioners, the Corporation from the Thika Controller, the Thika Controller shall take immediate steps to provide the information so that the Corporation can communicate its decision to the petitioner within 10 weeks from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)